

**STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE
COUNTY OF PROVIDENCE ZONING BOARD OF REVIEW**

MINUTES

A meeting of the East Providence Zoning Board of Review was held at 7:00pm, on Wednesday 6 April 2016, in the City Council Chambers, East Providence City Hall.

The following were present:

Eugene Saveory -Chairman

Michael Beauparlant – Vice Chairman

John Braga - ABSENT

Pier-Mari Toledo

Antonio H. Cunha

Richard Croke, Sr. - 1st Alternate

Gary Pascoa - 2nd Alternate

Edward Pimentel – Zoning Officer / Clerk

Gregory Dias – Assistant City Solicitor

I. OPENING STATEMENT BY CHAIRMAN

Chairman Saveory announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the eighteen-month repetitive petition clause. All petitioners are also

cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30 PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

II. SWEARING IN OF THE ZONING OFFICER

Chairman Saveory asks Assistant City Solicitor Dias to swear in the Zoning Officer, Mr. Pimentel.

III. SEATING OF ALTERNATE MEMBERS

◦ Chairman Saveory then informs the public that Mr. Braga is absent, and therefore Mr. Croke, 1st Alternate, will be both a participating as well as voting member on all of tonight's agenda items.

IV. APPROVAL OF ZONING MINUTES

◦ Chairman Saveory asks for approval of the 3 February 2016, Zoning Board of Review Minutes. Motion by Ms. Toledo to approve the 3 February 2016, Zoning Board of Review Minutes. The motion is Seconded by Mr. Cunha, and Unanimously approved.

◦ Chairman Saveory asks for approval of the 2 March 2016, Zoning Board of Review Minutes. Motion by Ms. Toledo to approve the 2 March 2016, Zoning Board of Review Minutes. The motion is Seconded by Mr. Cunha, and Unanimously approved.

◦ Chairman Saveory asks for approval of the 2 March 2016, Appellate Hearing Minutes. Motion by Ms. Toledo to approve the 2 March 2016, Appellate Hearing Minutes. The motion is Seconded by Mr. Cunha, and Unanimously approved.

V. ZONING OFFICERS REPORT

◦ Chairman Saveory announces that there is no report this month.

VI. CORRESPONDENCE / DISCUSSION

◦ Chairman Saveory announces that there are items to be discussed this month.

VII. STAFF REPORTS

◦ Planning Department Staff Report - 1 April 2016 – Previously submitted

◦ Fire Department Comments – 28 March 2016 – Previously submitted

◦ Engineering Department - 5 April 2016 – Submitted and read into record at time of hearing

◦ Complaint List – 2016 – Previously submitted

VIII. CONTINUED BUSINESS

1A. Petition No. 6608: Sandra Deluca seeks a Waiver, to forgo submission of a Class 1 Survey Site Plan, for property located at 110 Crown Avenue, being Map 309, Block 04, Parcel 018.00 and located within a Residential 3 District.

1B Petition No. 6609. Sandra Deluca seeks a Dimensional Variance, to retain a deck that was constructed without first obtaining the necessary building permit(s) and violates the requisite minimum side-yard set back, for property located at 110 Crown Avenue, being Map 309, Block 04, Parcel 018.00 and located within a Residential 3 District.

Zoning Officer informs the Board that Attorney Grieco, counsel for the subject petitioner, has formally requested an additional continuance from 6 April 2016 to 9 May 2016, and proceeds to read said request into the record.

Motion by Ms. Toledo to approve the 9 May 2016 continuance. The motion is Seconded by Mr. Cunha, and Unanimously approved

XI. NEW BUSINESS

• **Petition No. 6616 Eduardo Bettencourt seeks a Dimensional Variance, to construct a 300 square feet addition that would violate the requisite minimum side-yard setback for the property located at 77 Summit Street, Map 106 Block 3 Parcel 14 Residential 6 District.**

Attorney John Garrahy, with law offices at 2088 Broad Street Cranston, RI , informs the Board that he is counsel for the subject petitioner.

Michael Mchugh, a land service and zoning expert witness for Attorney Garrahy, who resides at 34 Chapin Avenue in Providence, RI is properly sworn in.

Attorney Garrahy informs the board that Mr. Bettencourt is seeking permission to construct a new 300 sq. ft. addition on the first floor of the home that would only have a 3 foot set-back and not follow the regulated 5 foot setback. The new addition would provide room for a dinning room and an additional full bathroom. Without this addition this would cause hardship for Mr. Bettencourt's elderly mother who is forced to climb the stairs to the second floor to use the restroom.

1A: Exhibit A – Mr. Mchugh's resume is requested to be Exhibit A by Attorney Garrahy is accepted as Exhibit A

Motion by Ms. Toledo to approve Mr. Mchugh's resume as Exhibit A. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

1B: Exhibit B – Mr. Mchugh's report of the property at 77 Summit Street, including photographs and maps be accepted as Exhibit B

Motion by Ms. Toledo to approve Mr. Mchugh's report as Exhibit B. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

Mr. Mchugh explains to the Board explains that the home is a small 1 ½ story single family dwelling only being 20 feet and 6 inches wide, with first floor currently being 700 square feet. What is purposed to the Board is that an 10 feet by 6 inches addition on the left side of the home be built to provide a dining room and full bathroom, to provide relief of hardship to Mr. Bettencourt's elderly mother who is forced to climb the stairs to the second floor if she needs to use the restroom. Mr. Mchugh explains that generally 90 percent of homes in the neighborhood follow similar setbacks to what is purposed, and the addition would not change the general character of the neighborhood.

Chairman Saveory queries the Board, beginning with Mr. Croke.

Mr. Croke inquires if the addition couldn't be be placed in the back of the home due to the location of the garage and effect parking.

Mr. Mchugh explains that if the addition was placed in the back of the home, the kitchen would have to be dismantled and would become costly to the homeowners, since there is room on the left side of the home off the kitchen the homeowners desire to place the addition on

the left side of the home.

Mr. Pascoa has no questions or comments.

Mr. Cunha inquires that if the home would remain a single family

Mr. Mchugh explains that the home would remain a single family, that the addition wouldn't change that.

Zoning Officer Edward Pimentel agrees because due to the zoning district and lot size the home could never be a two family.

Vice Chairman Beauparlant and Ms. Toledo have no questions or comments.

Chairman Saveory inquires whether or not the old basement would be connected to the new basement from both inside and outside the home.

Mr. Mchugh explains that a stand up bulkhead would be installed and a 3-4 foot wide foot connection between the new and old basement.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Croke, based on all the evidence and testimony

presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere

inconvenience.

Mr. Croke moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

1. 2. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Mchugh and Attorney Garrahy if they accept the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Mchugh and Attorney Garrahy respond that they fully understand and accepts the conditions just stipulated.

The motion is Seconded by Vice Chairman Beauparlant.

Roll Call Vote:

Mr. Croke - Aye

**Ms. Toledo - Aye
of the City's**

**The subject property well pre-date the adoption
Zoning Regulations. The home is small and**

the addition bathroom would provide relief of hardship.

Mr. Cunha - Aye Consistent with the other properties in the area with similar set backs, the unregulated 3 foot set back is approved.

Mr. Pascoa - Aye

Vice Chairman Beauparlant - Aye

Chairman Saveory - Aye

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

• Petition No. 6617 Erica and Christian Tonsgard seek a Dimensional Variance, to construct a 2nd floor addition to their existing non-conforming garage that wouldn't meet zoning set backs and height requirements for the property at 46 Barnsdale Road Map 208 Block 18 Parcel 3 Residential 3 District.

John Cottrell, who has an office at 35 Main Rd, Tiverton, RI , informs the Board that he represents the subject petitioners, as their Rhode Island registered contractor, Mr. Cottrell is properly sworn in. Christian Tonsgard are properly sworn in as well.

Mr. Cottrell explains to the Board that the Tonsgard's home at 46 Barnsdale Road was built on a slab so there is currently no basement storage and due to their growing family they need to construct the 2nd floor to the garage for room for storage.

Chairman Saveory queries the Board, beginning with Ms. Toledo.

Ms. Toledo inquires if there are any plumbing or heating plans.

Mr. Cottrell explains that there are no plumbing or heating plans.

Mr. Cottrell points out the height request of 25 feet, however it is not necessary but included in the plans.

Ms. Toledo inquires if there are any future plans of making the 2nd floor of the garage a living space.

Mr. Cottrell explains that it strictly just to accommodate storage.

Vice Chairman Beauparlant inquires about the existing home and the characteristics of the home such as the number of bedrooms.

Mr. Cottrell explains that the home is built on a slab, and a 4 bedroom 2 bath home.

Vice Chairman Beauparlant expresses his general concern of the future use of the 2nd floor of the garage to be used as living space, however since the home is on a slab he understands the lack of space.

Mr. Cottrell explains that he understands that the use of the 2nd floor of the garage as living space would have to be approved by zoning, however the space would just be used for storage.

Mr. Cunha inquires about how one would go up onto the 2nd floor of

the garage.

Mr. Cottrell explains that a staircase would be built in the interior of the garage and the staircase would be placed in the back of the garage.

Mr. Cunha inquires why the need for the 25 feet height request.

Mr. Cottrell responds with that 25 feet is the average height of a garage but after speaking with the East Providence Building Official, Albert Quattrucci, he discovered that the maximum height of an accessory structure is 20 feet.

Zoning Officer Edward Pimentel explains that the 20 feet is the maximum height for accessory structures, however the height restriction can be relieved if,

- 1. The accessory structure is attached to the primary structure, cannot be detached**
- 2. The accessory structure must comply with all full set backs**

However in this case, the accessory structure does not meet either standards.

Mr. Cottrell explains he is prepared to meet the required set backs of 20 feet if the 25 feet is not granted.

Mr. Pascoa has no questions or comments.

Mr. Croke inquires why the garage is addressed as “46A Barnsdale Road”

Mr. Tonsgard explains to the board that the garage is listed as 46A

Barnsdale Road because 6-7 years prior National Grid ran a gas line through the garage and requested that Mr. Tonsgard list the garage as 46A Barnsdale Road. To the best of his knowledge the gas line has been capped.

Mr. Croke inquires about the wood burning stove in the garage, if it is going to stay.

Mr. Tonsgard explains that they would like to stove to stay but will remove it if necessary.

Mr. Croke inquires about why there was a gas line in the garage.

Mr. Tonsgard explains that he and his wife have owned the home for ten years and do not know why there was a gas line installed in the garage.

Chairman Saveory inquires if the addition would be finished in the interior.

Mr. Cottrell explains that the addition will just be studded, insulated and sheet-rocked.

Chairman Saveory inquires to Mr. Tonsgard's knowledge besides the gas line was there any other plumbing done in the garage.

Mr. Tonsgard claims that to his knowledge no other plumbing has been done in the garage.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition.

A. Catrina Faria-Alves, of 20 Maplewood Street, East Providence RI, is properly sworn in. She explains that she is here to support the

Tonsgards since she understands the hardships of living on a slab and would like to have her neighbors stay in the area.

B. Danielle Blaszak, of 49 Barnsdale Road, East Providence RI, is properly sworn is. She explains that the Tongards are a wonderful addition to the neighborhood and wants to keep them as neighbors.

C. Adamson and Christian Straight, of 2 Pierce Court, Barrington RI, corresponded with the Zoning Officer via letter that is read into the record. The record stating that the Straight's own the property at 52 Barnsdale Road and have known the Tonsgards since 2009 and have no objections with the purposed garage addition.

Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Ms. Toledo, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant

and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Ms. Toledo hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Ms. Toledo moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Cottrell and Mr. Tonsgard if they accept the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Cottrell and Mr. Tonsgard responds that they fully understand and accepts the conditions just stipulated.

The motion is Seconded by Mr. Croke.

Roll Call Vote:

Ms. Toledo - Aye The subject property has no basement storage which causes Mr. Cunha -Aye hardship, so it would be a relief to grant the addition on the

Vice Chairman Beauparlant - Aye garage to be built.

Mr. Cunha - Aye

Mr. Pascoa - Aye

Chairman Saveory - Aye

Mr. Croke -Aye

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

• Petition No. 6618 John Ruggeiro seeks a Dimensional Variance and

Special Use Variance, to construct a 3,224 square foot addition to his auto body shop service, “J & J Auto Service, which is located on 429 Waterman Ave Map 306 Block 19 Parcel 6 Commercial 2 District.

- Mr. Ruggiero, who resides at 32 Deerport Street, Rehoboth, MA is properly sworn in.**
- Attorney Martin Sleprow informs the Board that he is counsel for the subject petitioner.**

Attorney Sleprow explains to the Board that Mr. Ruggiero is the sole owner of “J & J Auto Service” that has been servicing the area since 1961. They are requesting the special use variance and a dimensional variance to build a 3,224 square foot addition, because in 2015 the Rhode Island General Assembly established a two class system for auto body shops. There is a Class A and Class B certifications, Mr. Ruggiero is unable to obtain a Class A certification without the addition to make room for new equipment. Mr. Ruggiero has agreed to build a 6 foot stockade fence to give privacy to the neighbors.

1A: Exhibit A – Attorney Sleprow provides a copy of the Rhode Island General assembly bill H-5491 of the two classifications of auto body shops to be considered as an Exhibit and is accepted as Exhibit A

Motion by Mr. Cunha to approve the Rhode Island General Assembly bill– H-5491 provided by Attorney Sleprow as Exhibit A. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

Chairman Saveory queries the Board, beginning with Mr. Croke.

Mr. Croke has no questions but comments on how he understands the hardship due to the new state bill.

Ms. Toledo has no questions or comments.

Vice Chair Beauparlant mentions if there is already a fence at the facility.

Mr. Ruggeiro explains that there is already a fence but wants to replace it with the 6 foot stockade fence to provide privacy to the neighbors.

Mr. Cunha has no questions but comments that Mr. Ruggeiro runs a nice and clean business.

Mr. Pascoa has no questions or comments

Chairman Saveory comments that Mr. Ruggeiro's business is very impressive and how he has no concerns.

Mr. Croke inquires that with the new equipment for the aluminum cars does the shop need a new spray booth.

Mr. Ruggeiro explains that he will not need a new spray booth, he can use the same one.

Chairman Saveory inquires if there is anyone else present who would

like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Croke, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. That the use is compatible with the neighboring land uses
2. That the use does not create a nuisances in the neighborhood.
3. That the use does not hinder the future development of the City.
4. That the use conforms to all applicable sections of the special use requested.
5. That the use is in conformance with the purpose and intent of the East Providence Comprehensive Plan and applicable standards of this Chapter.

Mr. Croke moves that the special use permit be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Ruggeiro and Attorney Slepchow if they accept the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Ruggeiro and Attorney Slepchow respond that they fully understand and accepts the conditions just stipulated.

The motion is Seconded by Mr. Cunha.

Roll Call Vote:

Mr. Croke - Aye

Ms. Toledo - Aye The subject property is only expanding by 3% and will not be Mr. Cunha - Aye causing a nuisance to the neighborhood. The hardship in Mr. Pascoa -Aye the matter would require the owner to move his business Vice Chairman Beauparlant – Aye elsewhere without this addition.

Chairman Saveory - Aye

Special Use Permit unanimously granted, subject to the

aforementioned condition(s).

Motion by Mr. Croke, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Croke moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Ruggeiro and Attorney Sleprow if they accept the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Ruggeiro and Attorney Sleprow respond that they fully understand and accepts the conditions just stipulated.

The motion is Seconded by Mr. Cunha.

Roll Call Vote:

Mr. Croke - Aye

Ms. Toledo - Aye The subject property is only expanding by 3% and will not be Mr. Cunha - Aye causing a nuisance to the neighborhood. The hardship in Mr. Pascoa -Aye the matter would require the owner to move his business Vice Chairman Beaparlant -Aye elsewhere without this addition. Chairman Savoery – Aye

Dimensional variance is unanimously granted, subject to the aforementioned condition(s).

IX. ANNOUNCEMENTS

• Chairman Saveory inquires if the Board has any questions about the Cumberland farms appeal, hearing and seeing none from the board. In addition to next zoning board meeting will be held Monday 9 May 2016 at 7pm in the City of East Providence Council Chambers.

X. ADJOURMENT

• Motion to adjourn by Ms. Toledo. The motion is Seconded by Mr. Cunha and Unanimously voted to adjourn. Meeting is adjourned at 8:00 P.M.